

Message Text

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FOR L -- MR. HANSELL AND AMBASSADOR KEARNEY

E.O. 11652: GDS
TAGS: PGOV US GW
SUBJECT: YOUNG LOAN PROCEEDINGS

REFS: (A) STATE 148244; (B) BONN 10571

SUMMARY. AT JUNE 16 MEETING OF AGENTS AND COUNSEL FOR STATES INVOLVED IN SUBJECT PROCEEDINGS, AGREEMENT WAS REACHED THAT ORAL PROCEEDINGS SHOULD BEGIN MARCH 5, 1979. IMPORTANCE OF SIMULTANEOUS INTERPRETATION, WHILE COSTLY, WAS RECOGNIZED, AND THE POSSIBLE NEED TO MAKE USE OF RENTED INTERPRETING FACILITIES AT KOBLENZ, OR OF PERMANENT FACILITIES LOCATED OUTSIDE OF KOBLENZ, POSSIBLY IN BONN, WAS RAISED BY TRIBUNAL STAFF AND SUPPORTED BY GERMAN AGENT TO KEEP DOWN COSTS. THE SUGGESTION THAT ADDITIONAL COSTS FOR SIMULTANEOUS INTERPRETATION BE SHARED BY STATES INVOLVED IN THE PROCEEDING RECEIVED A VERY SKEPTICAL RECEPTION. DAILY PROCEEDINGS, AT LEAST DURING FIRST OF THE TWO CURRENTLY PLANNED WEEKS OF PROCEEDINGS, WOULD INVOLVE A LONG MORNING SESSION (0900-1300) AND NO SESSION IN THE AFTERNOON. END SUMMARY.

BONN PREPARATORY MEETING
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1. ON JUNE 15 AT EMBASSY BONN, APPLICANT STATES' AGENTS AND COUNSEL MET TO REVIEW ONCE MORE WHAT WAS GENERALLY AGREED AT MEETING IN GENEVA JUNE 2 AS REPORTED REFTEL (B). IT WAS FURTHER AGREED THAT AS THE TRIBUNAL'S CURRENT REGISTRAR, AN EMPLOYEE OF THE TRIBUNAL AND THUS OF ALL THE PARTIES, WAS SERIOUSLY ILL

AND MIGHT WELL NOT BE ABLE TO FUNCTION AS REGISTRAR DURING THE PROCEEDINGS, IT WOULD NOT BE SATISFACTORY FOR THE TRIBUNAL'S ACTING REGISTRAR (HUSEL), A GERMAN GOVERNMENT EMPLOYEE, TO BE IN CHARGE OF ORGANIZING THE FACILITIES AT KOBLENZ, IN PARTICULAR THOSE TO BE MADE AVAILABLE TO THE APPLICANT STATES OPPOSING HIS EMPLOYING GOVERNMENT. THE UK AGENT (BERMAN) WAS DISCREETLY TO MAKE THESE POINTS TO THE PRESIDENT OR VICE-PRESIDENT OF THE TRIBUNAL ON THE PERIPHERY OF THE JUNE 16 MEETING IN KOBLENZ.

2. SO FAR AS THE RELEASE OF STANDBY INTERPRETERS PREVIOUSLY AVAILABLE TO THE TRIBUNAL FOR THE EVENTUAL ORAL PROCEEDINGS WAS CONCERNED, ALL PARTIES HAD DETERMINED THAT THE BUDGET ITEM FOR INTERPRETERS, AS PRESENTED TO THE KURATORIUM AT ITS LAST MEETING IN OCTOBER 1977, MADE NO CHANGE IN THE USUAL DM 40,000 BUDGET ITEM FOR THIS PURPOSE. THUS, THE REASON FOR THE RELEASE BY THE TRIBUNAL WAS NOT APPARENT FROM THE DOCUMENTS SUBMITTED TO THE KURATORIUM IN JUSTIFICATION OF THE PROPOSED BUDGET FOR 1978 OR FROM THE KURATORIUM'S ACTIONS.

KOBLENZ MEETING

3. THE MEETING IN KOBLENZ WAS CHAIRED BY TRIBUNAL PRESIDENT CASTREN AND ATTENDED BY VICE-PRESIDENT WICKSTROEM AND HUSEL. THE MEETING WAS INFORMAL AND THE LIMITED OFFICIAL USE

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CLEAR PURPOSE OF THE TRIBUNAL MEMBERS WAS TO PULL THINGS TOGETHER IN CONSULTATION WITH THE PARTIES -- A DIFFICULT TASK AS THE TRIBUNAL'S STAFF HAD FOR ECONOMY REASONS BEEN PERMITTED, OVER THE YEARS, TO BE DRAWN DOWN TO A BARE MINIMUM NOT CAPABLE OF HANDLING THE FIRST PROCEEDING IN THE TRIBUNAL'S HISTORY THAT WILL INVOLVE THIS MANY (6) PARTIES AND THE NEED FOR INTERPRETATION INTO THE TRIBUNAL'S THREE OFFICIAL LANGUAGES.

DATES FOR ORAL PROCEEDINGS

4. AFTER MUCH DISCUSSION, MARCH 1979 WAS AGREED FOR THE ORAL PROCEEDINGS, WITH MARCH 5 (MONDAY) BEING SET AT THE END OF THE MEETING AS THE DATE FOR THEIR COMMENCEMENT.

INTERPRETATION SERVICES AND THEIR COST

5. THE APPLICANT STATES ALL FAVORED SIMULTANEOUS INTER-

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PRETATION INTO THE THREE LANGUAGES, THE CASE BEING A
VERY IMPORTANT AND COMPLICATED ONE, IT BEING ESSENTIAL
THAT ENGLISH BE A WORKING LANGUAGE. THE BENEFIT TO ALL
OF COORDINATED PRESENTATIONS BY THE APPLICANT STATES AND
COORDINATED WITNESSES WOULD BE LARGELY DESTROYED BY
CONSECUTIVE TRANSLATIONS THAT WOULD TRIPLE THE TIME
REQUIRED FOR THE PROCEEDINGS, IN TURN AFFECTING THE
SIMULTANEOUS AVAILABILITY OF JUDGES, AGENTS AND COUNSEL
FOR ORAL PROCEEDINGS THUS PROLONGED. THE GREATER COSTS
OF SIMULTANEOUS TRANSLATION (ST) WERE RAISED BY THE FRG
AGENT (RUMPF), WHO STATED THAT PERHAPS AN AD HOC
AGREEMENT TO SHARE THOSE COSTS MIGHT BE REACHED, AND THEN
TOOK UP THE IDEA FIRST VOICED BY HUSEL OF HOLDING THE
PROCEEDINGS ELSEWHERE THAN IN KOBLENZ AT A PLACE WHERE
ST FACILITIES WERE AVAILABLE. RUMPF UNDERTOOK TO
DETERMINE WHETHER COST-FREE USE OF FRG FEDERAL GOVERNMENT
FACILITIES IN BONN MIGHT BE POSSIBLE. THE
APPLICANTS' REPRESENTATIVES EXPRESSED AGREEMENT TO THE
POSSIBILITY OF MAKING BONN OR SOME OTHER FRG CITY THE
SITE OF THE PROCEEDINGS, NOTING THAT IN BONN THEY HAD,
IN THEIR RESPECTIVE EMBASSIES, BACK-UP FACILITIES FOR
COMMUNICATIONS, SECRETARIAL SERVICES AND THE LIKE, WHICH
WOULD OTHERWISE NEED TO BE ORGANIZED AND PROVIDED BY THE
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TRIBUNAL. IT WAS AGREED THAT WHILE KOBLENZ IS FORMALLY DESIGNATED AS THE SEAT OF THE TRIBUNAL, THE HOLDING OF PROCEEDINGS ELSEWHERE WAS NOT BARRED BY THE RULES OR ADMINISTRATIVE AGREEMENT. IT WAS RECOGNIZED THAT WHILE THE KURATORIUM WOULD NEED TO MAKE ADEQUATE PROVISION IN THE TRIBUNAL'S BUDGET FOR 1979 FOR EXPENSIVE ST FACILITIES, EFFORTS BY RUMPF/THE TRIBUNAL TO FIND AND COMMIT A SUITABLE FACILITY COULD NOT WAIT UNTIL OCTOBER.

6. PROPOSALS FOR SHARING OF GREATER COSTS FOR ST WERE NOT RECEIVED WITH ANY ENTHUSIASM BY THE APPLICANTS' REPS. IF THE FRG GOVERNMENT WISHED TO REQUEST THAT THE OTHER STATES INVOLVED SHARE THESE COSTS -- A REQUEST THAT WOULD BE IN DEROGATION OF THE PROVISIONS OF THE ADMINISTRATIVE AGREEMENT FOR THE TRIBUNAL -- THE FRG GOVERNMENT WOULD NEED TO ADDRESS SUCH A REQUEST TO THE APPLICANT STATE GOVERNMENTS IN THE NEAR FUTURE. THE UK AGENT (BERMAN) POINTED OUT THAT ARTICLE 11 OF THE ADMINISTRATIVE AGREEMENT PROVIDES THAT THE FRG IS TO PAY FOR THE COST OF THE NEEDS OF THE TRIBUNAL. KURATORIUM MEMBERS HAD BEEN AUTHORIZED OVER THE YEARS TO AGREE TO A DRAW-DOWN OF THE STAFF AND OTHER FACILITIES OF THE TRIBUNAL FOR ECONOMY REASONS ACCRUING TO THE BENEFIT OF THE FRG GOVERNMENT. IMPLICIT IN THOSE AUTHORIZATIONS BY THE OTHER STATES WAS THAT THE FRG WAS EXPECTED TO FOOT THE COSTS INVOLVED IN BRINGING THE TRIBUNAL UP TO THE LEVEL NECESSARY PROPERLY TO PERFORM ITS FUNCTIONS, NOW INVOLVING THE ORAL PROCEEDINGS. ANY APPROACH BY THE FRG FOR COST-SHARING WOULD BE VIEWED BY OTHER GOVERNMENTS IN LIGHT OF THIS BACKGROUND.

COUNSEL AND WITNESSES FOR THE FRG
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7. RUMPF STATED THAT FIRST COUNSEL AND CHIEF SPOKESMAN FOR THE FRG WOULD BE PROFESSOR FRIEDRICH ALEXANDER MANN; SECOND COUNSEL WOULD BE PROFESSOR HUGO HAHN OF THE UNIVERSITY OF WUERZBURG; THE RETIRED FINANCE MINISTRY (FMOF) DESK OFFICER FOR THE LONDON DEBT AGREEMENT, DR. ERWIN SEIDLER, WOULD APPEAR AS AN EXPERT, TOGETHER WITH A REP OF THE BUNDESSCHULDENVERWALTUNG, POSSIBLY SCHAFFNER BY NAME. ALSO PRESENT WOULD BE THE CURRENT DESK OFFICER OF THE FMOF. AS FOR WITNESSES, THE FRG SIDE WOULD POSSIBLY PRODUCE HERR ABS, BUT OTHERWISE NOTHING WAS CERTAIN YET. IN RESPONSE TO THE QUESTION WHETHER AND HOW THE GERMAN SIDE PROPOSED TO SEEK ANY RIGHT TO EQUAL ORAL TIME WITH THE FIVE APPLICANT STATES, RUMPF SAID HE DID

NOT PROPOSE TO DEMAND IT AS THE PARTIES TO THE PROCEEDINGS WERE NOT LIKE POLITICIANS IN AN ELECTION CAMPAIGN SEEKING EQUAL TV TIME. THE FRG SIDE WOULD SEEK TO SPEAK WHEN THEY DEEMED IT NECESSARY. HE SAID THAT HE WOULD WELCOME IT IF THE FIVE APPLICANTS WOULD COORDINATE THEIR PRESENTATIONS AND USE OF WITNESSES DURING THE ORAL PROCEEDINGS.

DAILY HOURS AND DURATION OF ORAL PROCEEDINGS

8. IT BECAME QUITE CLEAR THAT IT WAS THE PREFERENCE OF THE TRIBUNAL PRESIDENT AND THE VICE-PRESIDENT THAT THE DAILY SESSIONS BE LIMITED TO ONE LONGER SITTING, FROM

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0900 TO 1300, FIVE DAYS PER WEEK. AFTER THE FIRST WEEK, BASED ON PROGRESS MADE, IT COULD BE DETERMINED WHETHER ALSO AN AFTERNOON SESSION WOULD BE NEEDED TO COMPLETE THE ORAL PROCEEDINGS WITHIN THE TWO WEEKS FOR WHICH ARRANGEMENTS WOULD NOW BE MADE. THE IDEA OF HAVING A TWO-PART ORAL PROCEEDING, WITH OPENING STATEMENTS AND WITNESSES DURING THE FIRST PART, AND CLOSING ARGUMENTS DURING THE SECOND AFTER THE OPPORTUNITY IN THE INTERIM PERIOD FULLY TO STUDY ALL ORAL TESTIMONY, WAS NOT ACTIVELY PURSUED. THE CURRENT AIM IS TO FIND A FACILITY, PREFERABLY FREE OF COST, IN BONN FOR THE TWO CONSECUTIVE WEEKS BEGINNING MARCH 5, 1978. (COMMENT: THERE REMAINS CONSIDERABLE FEELING AMONG THE APPLICANTS' AGENTS AND

COUNSEL THAT TWO WEEKS WILL NOT PROVE ADEQUATE.)

WITNESSES

9. CASTREN HAD NO DIFFICULTY WITH THE STATEMENT OF THE UK AGENT THAT IT WOULD BE IMPORTANT FOR EACH SIDE TO BE ABLE TO PUT QUESTIONS TO THE WITNESSES OF THE OTHER SIDE. BERMAN SAID THAT IT WOULD BE USEFUL IF THE STATEMENTS OF WITNESSES AND THEIR REPLIES TO QUESTIONS COULD BE MADE AVAILABLE IN WRITTEN TRANSLATIONS IN ALL LIMITED OFFICIAL USE

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LANGUAGES TO THE PARTIES EITHER THE SAME DAY OR THE NEXT. IN RESPONSE, THE POSSIBILITY OF SEVERAL TAPE RECORDERS AND AVAILABILITY OF TESTIMONY ON TAPE WAS RAISED; THE POSSIBILITY OF VERBATIM MINUTES AT LEAST IN THE LANGUAGE IN WHICH TESTIMONY WAS GIVEN WOULD BE EXPLORED. IT WAS RECOGNIZED THAT SIDES WOULD BE DISADVANTAGED IF THEIR REACTIONS TO TESTIMONY WERE BASED ON MERELY THE POSSIBLY INACCURATE SIMULTANEOUS INTERPRETATION OF THE STATEMENTS AND REPLIES TO QUESTIONS MADE. IN THIS CONNECTION, RUMPF SAID THAT PROFESSOR MANN WAS PREPARED "TO READ" IN ENGLISH IF THAT WOULD HELP.

TRANSLATIONS OF ARTICLES CITED BY FRG

10. THE FRENCH AGENT (DELMAS) ASKED RUMPF TO PROVIDE TRANSLATIONS OF ALL THE GERMAN MATERIALS CITED IN THE RESPONDENT'S WRITTEN SUBMISSIONS. RUMPF BRIDLED AT THIS, CITING THE CONSIDERABLE COSTS OF TRANSLATING A LARGE MASS OF MATERIAL, AND OBTAINING THE ACKNOWLEDGEMENT OF THE TRIBUNAL THAT THE RULES OF PROCEDURE DID NOT IMPOSE A REQUIREMENT THAT TRANSLATIONS OF THESE MATERIALS BE PROVIDED. HE SAID HE WOULD DO WHAT HE COULD BUT COULD MAKE NO COMMITMENT IN VIEW OF THE COSTS INVOLVED AND THE ABSENCE OF A NEED FOR RECIPROCAL TRANSLATIONS OF ENGLISH AND FRENCH MATERIALS INTO GERMAN. DELMAS WILL ADDRESS A WRITTEN REQUEST TO RUMPF VIA THE TRIBUNAL ON BEHALF OF ALL APPLICANT STATES.

PUBLICITY AND PUBLIC ACCESS

11. THE US AGENT (PFUND) RAISED THE QUESTION OF PRESS ANNOUNCEMENTS ABOUT THE PROCEEDINGS. PRESIDENT CASTREN DID NOT APPEAR TO WISH TO FOCUS ON THIS QUESTION YET, LIMITED OFFICIAL USE

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STATING THAT THE HEARINGS WOULD BE OPEN TO THE PUBLIC AND THAT THE ANNOUNCEMENTS BY THE TRIBUNAL WOULD EVENTUALLY BE COORDINATED WITH THE AGENTS, THE PARTICIPATING STATES BEING ABLE TO ISSUE RELEASES THEMSELVES AS THEY SAW FIT.

12. THE APPLICANT STATES' AGENTS AND COUNSEL HAD AGREED JUNE 15 THAT THERE WAS CONSIDERABLE MERIT IN ENSURING THAT THEY WERE PUBLICLY SEEN ACTIVELY TO BE PURSUING THE INTERESTS OF THE BONDHOLDERS. THUS, IT WAS AGREED THAT THERE SHOULD BE NOT ONLY THEORETICAL ACCESS BY THE PUBLIC TO THE PROCEEDINGS, BUT ACTUAL NOTICE TO THE PUBLIC THEREOF. (COMMENT: THIS ASPECT OF THE PROCEEDINGS SHOULD BE RAISED AGAIN WHEN ARRANGEMENTS ARE MORE FINAL THAN THEY ARE AT THIS TIME.)

REGISTRAR

13. BERMAN SPOKE WITH CASTREN AND WICKSTROEM ABOUT THE REGISTRAR'S HEALTH PROBLEM (UNFORTUNATELY AND UNAVOIDABLY IN THE PRESENCE OF HUSEL) WITHOUT STATING THAT THE ACTING REGISTRAR WOULD BE UNACCEPTABLE TO THE APPLICANT STATES AS HE IS THE SERVANT OF THE RESPONDENT RATHER THAN, LIKE MARSDEN, THE SERVANT OF THE TRIBUNAL. COMMENT: SHOULD THE PROCEEDINGS FINALLY TAKE PLACE IN BONN, THE ADMINISTRATIVE SUPPORT THAT THE APPLICANT STATES COULD RECEIVE FROM THEIR EMBASSIES THERE WOULD ALLEVIATE THE PROBLEM OF THE FACILITIES MADE AVAILABLE THROUGH THE ACTING REGISTRAR TO THE APPLICANT STATES IN

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KOBLENZ. THUS, WE MEAN TO BE RELAXED ABOUT THIS MATTER
UNLESS BONN IS ELIMINATED AS THE SITE OF THE ORAL
PROCEEDINGS.

CZECH DECISIONS

14. BERMAN SAID THAT THE FCO TRANSLATORS HAD DETERMINED
THAT THE FIVE CZECH DECISIONS FOUND AND DISTRIBUTED AT
GENEVA BY DELMAS WERE PARTLY IN OLD PRE-REVOLUTIONARY
SLOVAK AND CZECH. HE SAID HE WOULD RAISE WITH AMBASSADOR
KEARNEY THE POSSIBILITY THAT THE USG CAN LOCATE A PRE-
REVOLUTIONARY CZECH ATTORNEY TO DO THE TRANSLATIONS.

COMMENT

15. THE AGENTS AND COUNSEL OF THE APPLICANT STATES WERE
GENERALLY PLEASED WITH THE KOBLENZ MEETING, HAVING
ACHIEVED A NUMBER OF THEIR BASIC AIMS: ENOUGH TIME FULLY
TO PREPARE FOR ORAL PROCEEDINGS; RECOGNITION OF THE
IMPORTANCE OF SIMULTANEOUS INTERPRETATION AND THAT THE
COSTS THEREFOR WERE THE RESPONSIBILITY OF THE FRG; A
SINGLE SITTING PER DAY, PERMITTING PREPARATION AND
PLANNING FOR THE NEXT DAY DURING THE AFTERNOON; AGREEING
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TO THE PROPOSAL BY THE TRIBUNAL AND THE FRG THAT RATHER
THAN RENTING ST FACILITIES FOR KOBLENZ THE ORAL PRO-
CEEDINGS TAKE PLACE WHERE SUCH FACILITIES MAY BE
PERMANENTLY AVAILABLE, POSSIBLY EVEN COST-FREE, IN BONN,
WHERE THE APPLICANT STATES HAVE GOOD SUPPORT FACILITIES
AT THEIR RESPECTIVE EMBASSIES; AND A GENERALLY
COOPERATIVE TONE ON THE PART OF THE TRIBUNAL
AND THE FRG AGENT THAT BODES WELL FOR A BUSINESS-LIKE
PROCEEDING WITHOUT FORMALISTIC COMPLICATIONS.
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